

Foster Home Exceptions on a Day Care Home License

Guidance Material for Child Placing Agencies



Statutes and Regulations Regarding Exceptions

Kansas law (KSA 65-504) allows the Kansas Department for Children and Families to issue a license for child care to be provided in a person's home. Only one license may be issued for a specific location. Kansas regulations [day care section KAR 28-4-119(b) and foster home section KAR 28-4-804(e)] state an exception may be granted if the applicant or licensee requests the exception to a regulation and the exception is in the best interest of a child or children.

Foster home regulation KAR 28-4-804(a) (4) and day care regulation KAR 28-4-114 (d) state that licenses shall not be issued concurrently for more than one type of child care. In addition, any written notice of an exception needs to be maintained in the licensed facility and posted next to the license.

If you are assessing a potential candidate to provide foster care that holds a day care license at their residence, that potential candidate may only hold one license to provide care for children. As the sponsoring CPA you may complete and submit a request to DCF for an **exception** to provide both types of care in the daycare provider's home per KAR 28-4-119(b).

The ability to successfully meet the needs of their own family, children in day care and children in foster care requires an exceptional family. A request for an individual to be approved to provide both types of care should only be submitted in exceptional circumstances; not on a routine basis. The expectation is for exception requests to be submitted only when other feasible alternatives have been explored.

Determining factors for approval of an exception to provide both day care and foster care in the daycare provider's home?

A number of criteria are reviewed and considered:

- The local child care licensing surveyor's recommendation to DCF, as well as the RA's review of the daycare provider's compliance history.
- Successful completion of PS-MAPP training resulting in a positive recommendation from the trainer(s) that the family is being recommended as a foster parent.
- The CPA social worker must complete a thorough family assessment per K.A.R. 28-4-175 (c) that is signed and dated, which includes assessing the family's competence/capability to provide both types of care.
- Surveys need to be completed, by **both the child care licensing surveyor and the DCF surveyor**, indicating the daycare licensee is in compliance with regulations both for day care and for foster care. (If the day care home is already licensed, the family will need to have operated in compliance with all of the regulations during the last year and have a positive compliance history with all child care regulations. An exception will neither be approved nor renewed if there are significant regulatory violations.)
- There **must be a need** for both foster care and day care services in the community where the daycare provider resides; for example, a child care provider may be the only day care and foster home resource in their community.
- There needs to be a **reason for the exception** **Examples include:**
 - providing respite care for children in foster care on the weekends when day care is not in operation,
 - relative of child in care,
 - the child or child's family is known to child care provider and there is a relationship,
 - the family wants to take children in foster care with a likelihood of adoption/permanency with the family, or
 - A child in care at the provider's day care home needs to be placed in foster care.
- Exceptions are typically approved for capacity of two children in foster care at a time, since the family is also providing day care in their home, and may have restrictions attached in order for the daycare provider to be considered in compliance. **The children in foster care count in total day care licensing capacity which may not be exceeded at any time.**

Beginning steps to determine if an exception to provide foster care will be approved:

1. During the orientation with the potential foster care provider and prior to accepting an application and/or starting PS-MAPP training, the CPA will need to inquire if the family currently holds a license to provide day care in the family home.
2. The CPA will then need to obtain the daycare license number and inform the family that the CPA will be contacting the Foster Care and Daycare Regional Administrator's (RA) in Topeka to verify compliance history with their daycare license. The CPA needs to inform the potential foster family of the information received from the RA's. It will then be determined how to proceed with enrolling the family in the PS-MAPP class; making it clear that their compliance history with their daycare license is not the only factor in determining if the exception request will be approved.
3. The CPA needs to help the potential family understand that the process for approving the potential family to provide foster care will involve a complete and thorough family assessment that is inclusive of how the daycare provider is able to provide both types of care and still be able to provide a safe and nurturing environment within the family system as well as within the hours of the daycare operation.
4. Remember, only **one license** will be issued and a special exception (maximum capacity of 2 for an exception to provide foster care with a daycare license) which may have restrictions and will allow the day care licensee to also operate a foster home with the day care license.
5. **Regulations of both programs must be followed. DCF allows only one exception in place at a time to a license held to provide care for children.**

NOTE: Should noncompliance evolve regarding either program the potential for an action to affect both the daycare license and the exception to provide foster care is high. Meaning, should noncompliance evolve regarding the daycare license, the potential for rescinding the exception to provide foster care exists and should be understood by the family. While the procedure for an enforcement action, such as suspension or revocation of the license, includes due process, the department may rescind an exception at any time. However, a program review may be an option, depending on the seriousness of the noncompliance.

REMEMBER: The CPA must be diligent in the matching process, as well as the educational information for the foster family, regarding placing children in foster care in the daycare provider's home, as some children's behaviors may present a potential risk to the children in the family home as well as those in daycare. Additionally, per day care regulation K.A.R. 28-4-125, any child in foster care over age ten will need to have a background check completed prior to placement in the home. Prohibiting offenses pursuant to K.S.A. 65-516 will prevent the approval of an exception to foster.

When will the CPA know if the exception has been approved?

The family will receive a printed exception form indicating an exception to provide foster care has been approved, or a letter denying the request with an explanation of the rationale. An approved exception will indicate the number and ages of the children in foster care to be cared for, as well as the expiration date of the exception and any restrictions. The family will need to keep the exception to provide foster care posted next to their day care license. A copy of the approval will be sent to the family's sponsoring CPA, the DCF surveyor, and the child care surveyor.

NOTE: If the family chooses to transfer to another sponsoring CPA, the family needs to be informed that the exception to provide foster care will automatically expire on the date of transfer to the requested sponsoring CPA. The potential sponsoring CPA will be required to re-submit the Request for an Exception to provide foster care to DCF for approval. The potential sponsoring CPA must complete this process prior to the transfer date, so there is no interruption in placement for the children placed in foster care.

What if there is a complaint in the daycare provider's home who holds the approved exception to provide foster care?

If there is a complaint that regulations have been violated in the daycare provider's home, the child care surveyor and the DCF surveyor will investigate the complaint and meet with the family, as well as the sponsoring CPA worker, to discuss the complaint. In addition, a DCF social worker and/or Law Enforcement may be involved. Should there be any significant regulatory non-compliance with either program, the exception to provide foster care may be rescinded.

What will the sponsoring CPA need to do for renewal of an exception to provide foster care?

The sponsoring CPA should ensure the family understands they will need to complete **two renewal packets**, one for the day care license and one for the exception to provide foster care. The foster care packet is completed by the CPA social worker and submitted to DCF by the sponsoring CPA. The day care renewal packet will be the family's responsibility to complete and submit to DCF. The annual exception request form will be completed by the family and sent to the child care surveyor. The child care surveyor will make a recommendation/provide information to the daycare RA in Topeka. The daycare RA will review the request with the foster care RA.

At renewal time, the CPA social worker will conduct an on-site survey of the daycare provider's home. There will also be an inspection completed by the child care surveyor in the daycare provider's home. Again, the family will need to continue to **meet the regulations** for both the day care and the foster care programs.

NOTE: The sponsoring CPA social worker completing the annual family assessment for the family will need to be in contact with the family's assigned child care surveyor to obtain information regarding the family's compliance with regulations during the daycare licensing year. The sponsoring CPA social worker will then need to include information gained in the family's annual assessment when making recommendations for the family to continue providing foster care. A copy of the annual family assessment is to be submitted with the renewal licensing packet.

There is no fee to operate a foster home or to have a foster care exception, but there is a fee to apply and renew a day care license.

As noted earlier, as the sponsoring CPA you may complete and submit a request to DCF for an exception to provide both types of care in the daycare provider's home per KAR 28-4-119(b). A request for an individual to be approved to provide both types of care should only be submitted in exceptional circumstances; not on a routine basis. The expectation is for exception requests to be submitted only when other feasible alternatives have been explored. City or county ordinances may limit the total number of children in care or otherwise prohibit two types of care on the same premises.

If you have a licensing question about a day care home, please contact the daycare RA and/or the foster care RA in Topeka. Having both a day care license and an exception to provide foster care will require a number of professional staff to work with the sponsoring CPA and to be in the daycare provider's home.

We hope this information is helpful to you in understanding the two types of care that are sometimes provided in exceptional situations, day care and foster care. Caretakers of abused and neglected children needing foster care services are greatly appreciated by DCF, as well as those providing care for children as a service to their community.

This information is not to be used for recruitment purposes, but rather in response to the occasional special circumstance that would be in the best interest of a specific child(ren).